



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

JUN 28 2019

**SPECIAL NOTICE LETTER FOR REMEDIAL INVESTIGATION/FEASIBILITY
STUDY ("RI/FS")
URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Udit Batra, Chief Executive Officer and President
EMD Millipore Corporation
400 Summit Drive
Burlington, Massachusetts 01803

Re: Special Notice Pursuant to Section 122(e) of the Comprehensive Environmental
Response, Compensation, and Liability Act, 42 U.S.C. § 9622(e) for the PROTECO
Superfund Site in Peñuelas, Puerto Rico

Dear Dr. Batra:

As you know, the U.S. Environmental Protection Agency ("EPA") has documented the release or threat of release of hazardous substances into the environment at the PROTECO Superfund Site ("Site"), located in Peñuelas, Puerto Rico. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675, and in response to these releases, EPA has spent public funds and anticipates spending additional public funds.

Under CERCLA and other laws, responsible parties may be held liable for any costs incurred by the government in taking response actions at the Site. The costs may include, but need not be limited to, expenditures for conducting investigation, planning, response, oversight, and enforcement activities. Responsible parties may also be subject to orders requiring them to take response actions themselves. Responsible parties under CERCLA include, among others, the current and past owners and/or operators of a facility from which there has been a release or threatened release of hazardous substances, persons who arranged for the disposal or treatment of hazardous substances that came to be disposed of at the facility, and persons who accepted hazardous substances for transport to the facility.

EPA has previously notified your company of its status as a potentially responsible party ("PRP") for the Site under CERCLA. By this letter, EPA wishes to determine whether you will voluntarily finance or perform some or all of the response activities at the Site, reimburse EPA's past costs, and/or pay certain future oversight costs for the Site.

Special Notice and Negotiation Moratorium

EPA has determined that use of the special notice procedures set forth in Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), may facilitate a settlement between you, the other special notice letter recipients, and EPA for performance of a remedial investigation and feasibility study ("RI/FS") at the Site. Under Section 122(e), this letter triggers a sixty (60)-day moratorium on certain EPA response activities at the Site. EPA will not commence implementation of certain EPA response activities at the Site during this 60-day moratorium. However, EPA reserves the right to take action at the Site at any time should a significant threat to human health or the environment arise.

During this 60-day period, you and the other PRPs are invited to participate in formal negotiations with EPA in an effort to reach a settlement to conduct or finance the RI/FS. The 60-day moratorium period to allow for negotiation, which will close 60 days from the date of this letter, can be extended for an additional 30 days if you provide EPA with a "good faith offer" to conduct or finance the RI/FS. Should the 60-day moratorium period be extended to a 90-day moratorium, negotiations would likewise be extended accordingly. If EPA determines that a proposal by one or more PRPs is not a "good faith offer," you will be notified in writing of EPA's decision.

If EPA determines that you have not submitted a good faith offer within the initial 60-day moratorium period for negotiation or that the PRPs receiving this notice do not wish to engage in negotiations, EPA may take appropriate action at the Site, which in this case may include either of the following options: (1) EPA may fund the RI/FS and reserve the right to pursue a cost recovery claim against you and/or other PRPs under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a); or (2) EPA may issue a unilateral administrative order ("UAO") to you and/or other PRPs under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), requiring the recipient(s) of the UAO to conduct the RI/FS. If the recipients of a UAO refuse to comply with the UAO, EPA may pursue civil litigation against the recipients to require compliance.

Negotiation Procedures and Good Faith Offer

As indicated above, if you are prepared to finance or perform the RI/FS, you must submit a written "good faith offer" to EPA before the end of the 60-day moratorium period for negotiation. Please be aware that any agreement by you to perform or finance the RI/FS at the Site must be memorialized in an administrative order on consent containing terms consistent with the provisions of Section 122 of CERCLA. A draft administrative order on consent ("Administrative Order") is enclosed with this letter. A statement of work ("SOW") will be sent to you under separate cover.

A "good faith offer" to conduct or finance the RI/FS is a written proposal that demonstrates the qualifications and willingness of the PRPs to conduct or finance the RI/FS and includes the following elements:

1. A statement of willingness by the PRPs to conduct or finance an RI/FS consistent with EPA's SOW and Administrative Order and that provides a sufficient basis for further negotiations;
2. A detailed response to EPA's SOW and draft Administrative Order identifying all issues with them and proposed resolutions. This response should be in the form of a redlined version of the enclosed documents. Upon request, EPA will provide Word versions of the enclosed documents via email;
3. A detailed description of how the PRPs plan to proceed with the work;
4. A demonstration of the PRPs' technical capability to carry out the RI/FS, including the identification of the firm(s) that may actually conduct the work or a description of the process that you will use to select the firm(s);
5. A demonstration of the capability of the PRPs to finance the RI/FS;
6. A statement of willingness by the PRPs to reimburse EPA for past costs and costs incurred in overseeing the PRPs' conduct of the RI/FS; and
7. The name, address, email address, and phone number of the party or steering committee who will represent the PRPs in negotiations.

Insurance

Some or all of the Site costs for which you may be held liable may be covered by current or past insurance policies issued to you. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of your first contact with the Site, up to the present. Coverage depends on many factors, such as the provisions of the particular policy and state law.

PRP Steering Committee

To assist you and other PRPs in negotiating with EPA concerning this matter, EPA is attaching to this letter a list of the names and addresses of other PRPs to whom it is sending this notice.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. EPA recognizes that the allocation of responsibility among PRPs may be difficult. If PRPs are unable to reach consensus among themselves, we encourage the use of the services of a neutral third party to help allocate responsibility. Third parties are available to

facilitate negotiations. At the PRPs' request, EPA will provide a list of experienced, third-party mediators or help arrange for a mediator.

Response

Your response to this letter should be sent by email or by certified mail to:

Andrea Leshak, Esq.
Office of Regional Counsel
New York/Caribbean Superfund Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866
leshak.andrea@epa.gov

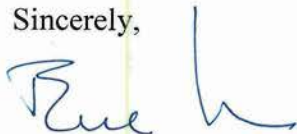
and to:

Zolymar Luna
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
#48 Rd 165, km 1.2
Guaynabo, Puerto Rico 00968-8069
luna.zolymar@epa.gov

If you have any questions regarding the technical aspects of this letter, please contact Ms. Luna at (787) 977-5844 or email her at the email address listed above. Please direct all inquiries regarding the Administrative Order or other legal questions to Ms. Leshak at (212) 637-3197 or at the email address listed above.

We appreciate your immediate attention to this matter.

Sincerely,



Eric J. Wilson
Deputy Director for Enforcement and Homeland Security
Emergency and Remedial Response Division

Enclosures